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CR-647

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH
AT BILASPUR

Single Bench

SECOND APPEAL NO. 353 /2006

APPELLANTS
DEFENDANTS

1) Pawan Kumar Agrawal ,
S/o Late Bharat Lal ,
Aged about ~~30~~ years

2) Mukund Lal Agrawal S/o Late Bharat Lal, Aged About 63 years.

Both are Resident of Behind Bus Stand Abhanpur, Distt- Raipur (C.G.)

3) Smt. Keshar @ Keshari Bai
Widow of late Shri Ramkumar Agrawal

4) Arun Kumar Agrawal
S/o Late Ram Kumar Agrawal

5) Santosh Kumar Agrawal
S/o Late Ram Kumar Agrawal

6) Anup Kumar Agrawal
S/o Late Ram Kumar Agrawal

7) Ashok Kumar Agrawal
S/o Late Ram Kumar Agrawal

Appellant No. 3 to 7 are R/o Arun Trade Combine Devpuri Tahsil & District- Raipur (C.G.)

8) Smt. Mithila Agrawal W/o RamSnahi Agrawal R/o Gudhiyari Raipur (C.G.)

9) Smt. Shail Agrawal W/o Sri Budh Narayan Agrawal R/o D.M.C. Colony, Kumhari, Tahsil & District- Durg (C.G.)

P.R. No. 1965/06
Presented by Shri ...
dated 10/7/06

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VERSUS

RESPONDENTS
PLAINTIFFS

1) Shrishchandra Agrawal
S/o Late Vimal Chand Agrawal
Aged about 65 years, R/o Vivekanand Nagar, Raipur.

2) Smt. Bhagwati Agrawal W/o Vimal Chand Agrawal Aged about 61 years,

3) Smt. Nitisha Agrawal Aged about 32 years D/o Late Vimal Chand Agrawal

Appellant No.1 to 3 are Resident of 65, Vivekanand Nagar Raipur (C.G.)

4) Smt. Usha Kiran Agrawal aged about 49 years, W/o Madan Murti Agrawal D/o Late Vimal Chand Agrawal R/o Shailendra Nagar, Raipur.

5) Smt. Manisha Agrawal Aged about 37 years W/o Pramod kumar Agrawal, R/o Vinoba Nagar, Bilaspur(C.G.)

6) Smt. Rama bai Agrawal aged about 59 years, W/o Sushil Narayan Agrawal R/o Kota, Raipur.

7) Smt. Lilli bai Agrawal aged about 55 years W/o Madhur Murti Agrawal, R/o Sunder Nagar, Raipur.

8) Ramesh Agrawal aged about 49 years S/o Shatrughan Lal Agrawal

9) Girish Kumar Agrawal Aged about 45 years S/o Shatrughan Lal Agrawal.

10) Jyotish kumar Agrawal aged about 41 years S/o Shatrughan Lal Agrawal

11) Santosh Kumar @ Satish Agrawal S/o Shatrughan Lal Agrawal

All R/o Near Raipur Naka Baloda Bazar, Distt- Raipur (C.G.)

12) Smt. Shanti Devi Agrawal aged about 50 years W/o BramhaNand Agrawal R/o –Baniyapara, Purani Basti Raipur (C.G.)

13) Smt. Kanti Agrawal aged about 50 yeardas W/o Dashrath Lal Agrawal R/o Old Mungeli, Near Bus Stand, Bhatapara, Distt- Raipur.

14) Smt. Gita Devi Agrawal Aged about 47 years, W/o Mahesh Kumar Agrawal R/o Near- B.T.I. College Shankar Nagar, Raipur (C.G.)

15) Smt. Maya Bai Agrawal Aged about 67 years, Widow of Late Navranglal Agrawal R/o Kapa Mova, Raipur Tah & Distt- Raipur.

16) State of C.G. Through: Collector Raipur , Distt- Raipur (C.G.)

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MEMO OF SECOND APPEAL UNDER SECTION 115 OF CODE OF CIVIL PROCEDURE

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... S.A. No. 353/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

27-02-2007

Dr. Shri N.K. Shukla, learned Senior Advocate with Shri Anil Gulati, counsel for the appellants.

Shri Akhil Agrawal, Panel Lawyer for the State/respondent No.16.

Heard on I.A.No.2513/2006 for taking documents on record.

Considered and allowed. Documents are taken on record.

Also heard on admission.

Learned senior counsel for the appellants submitted at the very outset that the defendants/appellants could succeed in this appeal only by demonstrating that during the life time of Hira Lal Agrawal there was a partition between his sons Dhaneshwar Prasad Agawal and Ram Karan Agrawal and that pursuant to such partition the suit lands came to be recorded in the name of Mandalhin Bai, widow and Gomati Bai, daughter of Dhaneshwar Prasad Agrawal. No other point was urged.

In support of his arguments, Dr. Shri N.K.Shukla, learned Senior Advocate has placed reliance on the admission made by Shri Srichand Agrawal, PW-1 in paragraph-8 of his testimony that after the death of Hira Lal Agrawal, the names of Mandalhin Bai and Gomti Bai came to be recorded on the suit lands. However, this by itself would not be sufficient to prove partition between Dhaneshwar Prasad Agawal and Ram Karan Agrawal. Both the Courts below have on proper appreciation of the material on record given a finding that no partition took place between Dhaneshwar Prasad Agawal and Ram Karan Agrawal. The said finding is based on proper appreciation of the material on record and cannot be said

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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	to be perverse. Thus, a concurrent finding of fact is not open to challenge in Second Appeal. In this view of the matter, no substantial question of law is involved in this Second Appeal which is accordingly dismissed at the stage of admission. There shall be no order as to costs. In view of above, M.(C.)P.No.2234/2006 for grant of stay also stands dismissed. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	

Tumane

P.T.O.